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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,553	03/04/2005	Mark Durfield	265491US6PCT	9237
22850 7590 05/20/2010 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER REDMAN, JERRY E				
ART UNIT 3634		PAPER NUMBER		
NOTIFICATION DATE 05/20/2010		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

## Application No.

10/526,553

## Applicant(s)

DURFIELD ET AL.

## Examiner

Jerry Redman

## Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 20-30, 32, 33 and 35-41 is/are pending in the application.
- 4a) Of the above claim(s) 24, 26 and 29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-23, 25, 27, 28, 30, 32, 33 and 35-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

This application contains claims 24, 26, and 29 are drawn to an invention nonelected with without traverse in the reply filed on 9/15/2008. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

The status of the claims is as follows:

Claims 1-19, 31, and 34 have been cancelled;

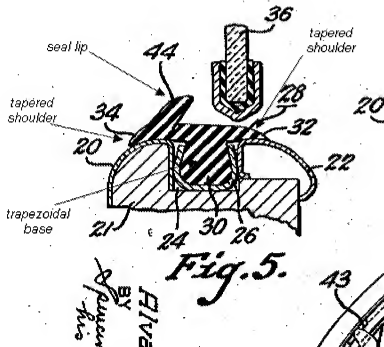
Claims 24, 26, and 29 have been withdrawn from consideration; and

Claims 20-23, 25, 27, 28, 30, 32, 33, 35-41 are herein addressed below.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 20-23, 25, 27, 28, 30, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott (2,172,091) in view of Royce et al. (4,233,780). As shown below, Schott ('091) discloses a plastic/rubber seal having tapered shoulders, a sealing lip, and a base having a trapezoidal solid base.



All of the elements of the instant invention are discussed and shown in figure 5 above except providing the seal to have a shore hardness between 40 and 60. Royce et al. (4,233,780) disclose a seal having a shore hardness of 45 (column 2, line 21). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the seal of Scott ('091) with a shore hardness of 45 as taught by Royce et al. (4,233,780) since the shore hardness of seals are well known and would have been a matter of design choice. Furthermore, the seal of Scott ('091) would operate equally as well with a shore hardness of 45.

Claims 33 and 35-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott (2,172,091) in view of Kennedy (5,584,143). All of the elements of the

instant invention are discussed in detail above except providing the seal to be mounted on an edge of a double pane glass panel. Kennedy ('143) discloses a double panel glass panel assembly having a seal attached to an end of the panel. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the seal of Scott ('091) to be used on a double pane glass assembly as taught by Kennedy ('143) since a double pane glass assembly allows one to see through the panel and still seal the periphery about the glass pane assembly.

The applicant's arguments have been considered but all are not deemed persuasive. It appears that the applicant is arguing the references individually and not the combination per se. Royce et al. merely describes that it is well know to form a plastic/rubber and more specifically, a plastic/rubber having a well know shore harness. The seal of Royce et al. was not used to show a seal formed of differing materials as the applicant is trying to contest. As stated in the last office action, *there is nothing novel about forming a weather-strip having a Shore A hardness between 40-60*. Furthermore, seals of many differing shapes, sizes, and materials having been formed with differing hardness based on the desired utility and function.

With respect to claim 33, the applicant again argues the references individually and not the combination thereof. When the weather-strip of Scott is inserted between two panes of glass, the trapezoidal shape (being wider than the opening) would be compressed and provide friction between the two panes thereby holding the seal in a fixed position between the two panes of glass. To provide a weather-strip between two

panes of glass and/or provide two panes of glass with a trapezoidal shape weather-strip at the end of the two panes of glass would have been obvious to one of ordinary skill in the art at the time of the invention. One would easily look to Scott and Kennedy to provide a trapezoidal shaped weather-strip at the ends of and in between two panes of glass. Therefore, the applicant is arguing the references individually and not the combination thereof. Scott clearly discloses a seal on an edge of a panel (and not between two panes of glass) and Kennedy discloses a different seal along and between the edge of two panes of glass. Merely substituting one seal for another is well known and one of ordinary skill in the art at the time of the invention would look to any teachings which provide a seal along an edge and between two panes of glass and substituting one seal for another and/or one type of closure for another would have been an obvious substitution at the time of the invention.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Redman whose telephone number is 571-272-6835. The examiner can normally be reached on M-TH from 8 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Mitchell, can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jerry Redman/  
Primary Examiner, Art Unit 3634